

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

JAMIE M.,

Claimant,

vs.

INLAND REGIONAL CENTER,

Service Agency.

OAH No. 2011061000

DECISION

This matter came on regularly for hearing before Administrative Law Judge Roy W. Hewitt, Office of Administrative Hearings, at San Bernardino California on July 26, 2011.

The Inland Regional Center (agency) was represented by Leigh-Ann Pierce, Consumer Services Representative, Fair Hearings and Legal Affairs.

Claimant was represented by her mother.

Oral and documentary evidence was received and the matter was submitted on July 26, 2011.

ISSUES

1. Should the agency be required to fund a Work Activity Program (WAP) at Oparc/DI?
2. Should Ana Gomez be assigned as claimant's Consumer Services Coordinator?

FACTUAL FINDINGS

1. Claimant, who turned 18 years old in June of 2011, qualifies for agency services based on a diagnosis of Mild Mental Retardation.

2. Claimant has been receiving special education services through Upland High School.

3. On June 9, 2011, claimant received a Certificate of Completion from Upland High School and her mother, as claimant's advocate, requested that the agency fund the Oparc/DI WAP because claimant had completed her schooling.

4. The agency denied claimant's funding request on the following basis:

Jamie has not yet obtained a high school diploma, is under the age of 22 and is still eligible for free and appropriate educational services through the educational system. It is documented that Jamie's last IEP with the Upland School District was in March 2011. Jamie did exit school with a Certificate of Completion; however she is eligible to return to school to explore vocational opportunities that will assist you in preparation to join the work force at the age of 22.

At this time IRC feels that the public education system is the most natural community setting and continues to have primary responsibility for Jamie's educational and vocational training. When Jamie is no longer eligible for that system IRC will be happy to help you explore alternative educational or vocational options. (Exh.1)

5. While still in school, claimant was taken on a tour of the Oparc/DI program by one of her teachers and liked that program. The teacher, however, failed to alert claimant and/or her mother that claimant would have to reach the age of 22 or obtain a high school diploma before IRC would fund the program. Had that information been relayed to claimant and/or her mother, claimant would have pursued a high school diploma in lieu of pursuing the Certificate of Completion. This problem can be rectified by having claimant, with the aid of an advocate, return to the school and participate in an IEP meeting where she can pursue/petition for a high school diploma. Claimant is reluctant to return to school but during the hearing it was established that she may be persuaded to do so with the help of Mardee Gettemy, an agency CSC whom claimant trusts. If claimant obtains her high school diploma then the agency will be required to fund the Oparc/DI WAP.

6. Claimant's mother and claimant's brother are receiving agency services and they both have Ana Gomez as their CSC. Claimant's mother wants Ana Gomez to be assigned as claimant's CSC because CSC Gomez is very familiar with the family and claimant's mother believes it will be in her family's best interests to have a single CSC

coordinating the services for all consumers in the family. The only reservations expressed by the agency concerning having CSC Gomez assigned to claimant is that CSC Gomez is an adult counselor and “may not know how to advocate with the school district at IEP meetings and may not be familiar with the WAP claimant wants to attend.” These are very minor concerns and with mother’s help, CSC Gomez will surely rise to the occasion.

LEGAL CONCLUSIONS

1. Welfare and Institutions Code section 4659, subdivision (a) provides, in pertinent part, that “The regional center shall identify and pursue all possible sources of funding for consumers receiving regional center services. These sources shall include, but not be limited to . . . (1) . . . school districts Based on this legislative mandate, the agency is prohibited from funding claimant’s preferred WAP while the school district still has primary responsibility for providing/funding the same or similar program. However, as set forth in Finding 5, claimant has the power to alter the current situation by obtaining her high school diploma. Once she obtains her high school diploma the school district will no longer have the primary responsibility to provide services to claimant; that responsibility will shift to the agency.

2. Welfare and Institutions Code section 4646, subdivision (a) provides, in pertinent part, “It is the intent of the Legislature to ensure that the . . . provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate” Similarly, Welfare and Institutions Code section 4647, subdivision (b) provides, in pertinent part, “. . . No person shall continue to serve as a service coordinator for any individual program plan unless there is agreement by all parties that the person should continue to serve as service coordinator.” In sum, the consumer’s and family’s preference for a particular CSC should be honored unless there is an overriding reason not to honor that preference. In this case, no such overriding reason exists.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

1. The agency’s denial of funding for claimant’s WAP is upheld; however, the agency shall cooperate with claimant by providing her with an advocate to attend a school district IEP meeting with claimant, provided claimant invites/authorizes the advocate to attend the IEP meeting, to aid claimant in obtaining her high school diploma. The agency shall further aid in this regard by making CSC Mardee Gettemy available, as necessary, to help claimant’s mother to persuade claimant to pursue her high school diploma.

2. The agency shall assign Ana Gomez as claimant's CSC.

DATED: July 28, 2011.

ROY W. HEWITT
Administrative Law Judge
Office of Administrative Hearings

NOTICE:

This is a final administrative decision pursuant to Welfare and Institutions Code section 4712.5(b)(2). Both parties are bound hereby. Either party may appeal this decision to a court of competent jurisdiction within 90 days.